

1870-015
Lee Co.

Chancery Causes: Shadric Wiler & wife vs. John E. Davault &c

Davault

1 Plat

CA-Estate Dispute
T-Property

To the worshipful County Court of Lee
County, in Chancery now sitting,
Your orator, and oratrix Shadrice Wiler
and Mary E Wiler his wife, respectfully
represents, to your worships, That one
William Davault, late of this County, now
deceased, owned at the time of his death
a valuable tract of land in this County, situated
on Walden's Creek, containing about, 300,
acres. The said Davault, at the time of his
death, was still owing a considerable sum
the residue of the purchase money for
said farm, for this debt, apart the said
land was about to be sold, but your
oratrixes, and other co-heirs guardian came
forward, and assumed the payment of
said debt, and thereby, secured, to the said heirs
the lands thus owned by their father, a small
portion of said debt is still due; but your
orator & oratrix feel themselves able now
to discharge their portion of said debt
as the same may fall due or be demanded
of them. The father of the female plaintiff
the said William Davault, left as his heirs
at law, John E. Davault & Jacob W. Davault
both of whom, are infants under 21 years
of age. The female plaintiff intermarried
with the male plaintiff since the death
of her said father. The mother of the said
heirs is also dead. Thus it will ^{be} seen for
may purposes it is ^{be} desirable, to have partition
made of the said land, which is the
object of this bill. Your orator and oratrix
have no home of their own, and have

of their own & home to pay rent, but they
are advised, that it is their right to have
partition of the lands, before mentioned
made between the aforesaid heirs, giving
to each one third, in value quality & quantity
considered. Their prayer therefore is that
John E. Davault & Jacob W. Davault, be
made parties defendants to this bill, that
a guardian ad litem be appointed to
answer for them, and protect their interest
in the premises, that on a hearing or decree
he rendered, directing partition to be made
of the said lands, as in equity seems just
and grant ~~and~~ after further & general relief
may summons issue &c

Gagan & Pindemoy

* The guardian James W. Jayne to reim-
burse himself for moneys thus paid as
purchase money, has continued, to rent
all the said tract, and apply the proceeds
thus arising, to the payment of the aforesaid
purchase money, all of which has
now been nearly discharged; but should
grantors and avatrix, fail to pay their
due portion of the said purchase money
they are willing that the said, Jayne guardian
as aforesaid shall still continue, to exercise
control, of the said premises, for the pur-
pose of paying the said purchase money
and reimbursing, himself for any amounts
he may have heretofore paid

Late clk \$3.12
 State Tax 50
 J. B. H. L. 3.62
 A. 5.15
 C. 15.00
 Course 4.50
 Comrs 13.00
 C. A. L. 5.00
 \$46.27

^{W.P.}
 Shadr. Wiler wife

vs Bill in ch

John E. Daveaulter

1870. Jan. Bill filed, Sp. Ex. and
Decree nisi + Continued.

Feb. Decree nisi Confirmed
and cause set for hearing.

Feb. T. David Miller app. Guardian
ad litem, his answer filed, Decree
+ the Cause Continued.

March. Continued

April Continued

May Continued.

June + July cont'd.

Aug. Rules Court + cont'd.

Sept. Decree + cont'd.

Oct. Continued.

Nov. Decree Final

Late clk \$3.12
 J. B. H. L. 3.62
 A. 5.15
 C. 15.00
 Course 4.50
 Comrs 13.00
 C. A. L. 5.00
 \$24.77

To the Worshipful County Court of Lee
County in Chancery Sitting:

The joint answer of John E. Devault
and Jacob W. Devault minors under 21 years
of age by David Miller their Guardian
ad litem to the Bill of Complaint filed
in this worshipful Court by Shadrack Miller
and Mary E. Miller his wife against them.

Respectfully represents that they are
minors under 21 years of age and neither
admits nor denies the allegations contained
in Complainants Bill but reserves to themselves
now at all times hereafter the benefit of the
usual exceptions to Complainants' Bill and
the Court of equity being the peculiar guar-
dians of the rights of infants they ask
that this Court will proceed in this cause
according to the rules of equity and that
the Court will protect their rights in the prem-
ises in any and every thing that
affect their interests and having answered
as fully as they are advised it is necessary
for them to answer they ask to be dismissed
with their costs.

John E. Devault

Jacob W. Devault

Fee of Guardian ad litem

\$5.00.

} By David Miller
} Their Guardian ad litem

Jacob W. Davault et al.

ad. } answer of Guardn.
ad litem

Shadrick Miler & wife.
1870. Feb'y term
Sworn to in open Court.

J. R. West, D. Clerk

Fee of Guardian ad litem
\$5.00

Fee Bill

Shadrice Miller & wife. plffs

against

John E. Davault et als defts

In Chy

This cause came on again this day to be heard upon the papers formerly read in the cause & the report of Eli Davis Robert, Clark & Robert E. Clark, com missioners appointed to partition said lands and was argued by counsel, and it appearing to the court that said report has been filed among the papers of said cause more than 30 days before the commencement of this term and no exception being taken thereto, the same is confirmed on consideration whereof it adjudged ordered & decreed, that each of the parties, take & hold in fee simple free from the claims of each other, the lots or parcels, of land, ^{as designated in} the said plat & report of Eli Davis Robert Clark & Robert E. mentioned & described, according to the boundaries therein specified. But by the consent of the plffs by their counsel, it further ordered, that unless the said plffs shall discharge their due proportion annuallly of a debt due James W. Jayne ^{the personal plff} former Guardian, it being 1/3 of said debt, then the said Jayne, may have the privilege, to rent their lot as heretofore until the rents of the same discharge his said debt. And it appearing to the court that the said partition, has been alike for the benefit of all, it ^{is} adjudged ordered & decreed, that they each pay

an equal portion of the costs of this
 court, that is that the pl.ffs pay 1/2 and
 the guardians of Jacob M. Bevanult, & John
 E. Bevanult pay to the pl. ff 1/2 of the costs
 of this suit & when so paid the same or
 receipt therefor shall be a proper voucher
 for him in the settlement of his guardianship
 account, of said infants - and no
 further action being necessary the cause
 is stricken from the docket - with leave
 to either party to apply at any time
 to this court for the enforcement of this
 decree -

Madame Willm. Sturte
 116

as of decree
 final

John E. Bevanult et al
 Nov. 7. 1870

Enter this decree

Nov 23rd 1870

H. Morgan

245 85

Shadrac Wiler & wife }
John E. ^{vs} Wavault et al } In chy.

This came on again to be heard upon the papers formerly read in the court and was argued by counsel - and it appearing to the Court that, Martin Sims & John D. Sims against whom a rule had been granted at a former term of this Court as commissioners ought not for sufficient reasons appearing to the Court to act therein and having satisfactorily explained their said action the rule aforesaid is discharged; as is also the said rule granted against Eli Davis commissioners in said cause -

And thereupon the Court doth adjudge order & decree that Eli Davis Robert Clark Robert E. Clark be and the same be hereby appointed commissioners in said cause whose duty it shall be, to proceed at once and execute the decree heretofore directed to the said Eli Davis, John D. Sims & Martin Sims, and report their action to this Court ~~to which time~~ and the cause is continued -

Shadrice Miles wife

vs ~~Deceit~~

John E. Davault et al

Entered Page 68 & 69.

J. W. Orr, D. C.

Enter this Deed

H. J. Morgan

Sept 20th 1870

Sharrach Wiler Suisse pffp
 against
 John E Duvaunt et als. Depts } In cy

An Motion of the plaintiffs David Miller is appointed guardian ad litem for the infant defendants And on his Motion Their Answer is filed, And thereupon This Cause came on This day to be heard on the bill of the plaintiffs the answer of the defendants by their guardian ad litem And was argued by counsel, On Consideration whereof it is adjudged ordered and decreed That Eli Davis Martin Davis and John Davis be appointed Commissioners whereunto it is hereby made to go upon the land in the bill mentioned owned by the female plaintiff and defendants And partition the same into three ~~equal~~ parts of as equal value as may be And allot or assign one of these parts to the female plaintiff and one to each of the defendants of which the said Commissioners are directed to report and make a plot thereof showing the metes and bounds. But as it appears from the allegations of the bill That the debts due from the estate of the ancestor of the defendants and female plaintiff have not yet been fully paid And that for ~~the purpose the said lands are being rented~~ of raising money to satisfy these debts the said lands are being rented by the guardian of defendants and former guardian of female plaintiff - whereupon on further Consideration it is adjudged and ordered That James W. Payne the said guardian continue to rent out said lands notwithstanding the partition hereby ordered until the debts shall be satisfied But should the plaintiffs think proper to pay the said guardian so much of the debts due from

12 Said estate as may be equal to Their due proportion
Thereby then they shall be entitled to enter upon
and hold the land that may be assigned to
the female plaintiff - And this cause is
continued.

Shadrach W. W. W.

vs. } Deane

John E. Deane & Co.

O.B. 606.

For Bell

Virginia

At a County Court continued and held for Lee County at the
Court House thereof on Tuesday the 20th day of September 1870,
Shedrick Wiler & wife

Plffs

against

John E Davault et al

Defts

In Chancery.

This cause came on to be heard upon the papers formerly read in
the cause, and was argued by counsel + + + + +
And thereupon the court doth adjudge, order, and decree, that
Eli Davis, Robert Clark & Robert E Clark be and the same
are hereby appointed commissioners in said cause, whose duty
it shall be to proceed at once and execute the decree heretofore
directed to the said Eli Davis, John D Sims, & Martin Sims, and
report their action to this court, and the cause is continued.

Teste - James W Orr, D. Clk.
A copy Teste - James W Orr, D. Clk.

Eli Davis

Virginia

At a County Court continued & held for Lee County Feby 22^d 1876.
Shadric Wiler & wife Plaintiffs

against
John E. Davault et al Defendants } In Chancery.

Among other things in this cause, It was adjudged, ordered and decreed that Eli Davis, Martin Sims, and John Sims be appointed Commissioners, whose duty it is hereby made to go upon the land in the Bill mentioned, owned by the female Plaintiff and defendants and partition the same into three parts of as equal value as may be, and allot or assign one of these parts to the female Plaintiff and one to each of the defendants, of which the said Commissioners are directed to report, and make a plat thereof, showing the metes and bounds.

A copy-

Lester John B. West, D. Clerk

Eli Davis

Virginia

At a County Court continued & held for Lee County February 22^d 1870.

Shadrac Miler & wife,

Plaintiffs

against

In Chancery.

John E. Davault et al.

Defendants

Among other things in this cause, it was adjudged, ordered, and decreed that Eli Davis, Martin Sims, and John Sims be appointed Commissioners whose duty it is hereby made to go upon the land in the Bill mentioned, owned by the female plaintiff and defendants, and partition the same into three parts of as equal value as may be, and allot or assign one of these parts to the female plaintiff, and one to each of the defendants, of which the said Commissioners ^{are} directed to report, and make a plat thereof, shewing the metes and bounds.

At Copy -

Lester John B. West, D. Clerk

Shadric Wiler + wife
vs $\frac{3}{4}$ Copy of part of Decree
John E. Davault et al

Executed on Martin
Jno D. Sims by me
Jno H. Allen JS

Fee Bill

Virginia

At a County Court continued and held for Lee County at the
Court-house thereof on Tuesday the 20th day of September 1870.

Shedrick Wiler & wife

against

John E. Danault et al

Plffs

Defts

In Chancery.

This cause came on to be heard upon the papers formerly
read in the cause, and was argued by counsel, + + + + +
And thereupon the Court doth adjudge, order, and decree, that Eli
Davis, Robert Clark, & Robert E. Clark be and the same are
herely appointed Commissioners in said cause, whose duty it shall
be to proceed at once and execute the decree heretofore directed
to the said Eli Davis, John I. Sims, & Martin Sims, and report
their action to this Court, and the cause is continued.

Teste - James W. Orr, C. Clk.

Shedrick Wiler & wife
 vs. Appointment of Comrs
 John E. Danault et al

Executed on
 Robert E. Clark and
~~Robert Clark~~
 and Ely Davis
 by J. Miles JS
 for W. W. Gagesse

Fees.

Eli Davis,
Robert Clark,
Robert E. Clark.

\$ 7.00
\$ 3.00
\$ 3.00

Total.

13.00 .

(1)

We, Eli Davis, Robert Clark and Robert E. Clark having been appointed Commissioners on the 20th. day of September 1870, by the County Court of Lee County to perform the duties imposed by a former order of said Court dated February the 22nd. 1870, and directed to Eli Davis, Martin Sims and John Sims, in the case of Shadrach Wiler and wife Plaintiffs against John E. Davault et. al. Defendants for partition and assignment of the lands in the Bill mentioned proceeded on the 13th. day of October 1870. to survey and allot the said land in the manner following.

First we have laid off and assigned to Jacob W. Davault a lot of mountain land estimated to contain 57 acres and marked No. 1, on the Plot and represented by the Figure. 10. 24. 15. 14. 13. 12. 11. 10. and bounded as follows viz:

Beginning at a buckeye in a hollow on the N. Side of the wagon road, corner to Martin Sims' land and running thence S. 85 W. 42 poles to a Stake in said road corner to the second lot and with a line thereof S. 24 E. To the top of Powell's mountain, thence along the top N. 65 E. To a hickory and Sugar tree Martin Sims' corner, and with his lines N. 26 W. 46 poles to a buckeye & mulberry; and hickory, thence N. 23 W. 74 poles to a chestnut Oak, thence N. 40 W. 47 poles to a cypress, thence N. 15 W. 43 poles to

(2)

the beginning.

Secondly we have allotted and assigned to John E. Davault a lot estimated to contain 71 acres marked No. 2, on the Plot & represented by the Figure 10. 9. 8. 7. 6. 5. 4. 31. 30. 29. 28. 27. 26. 25. 16. 15. 24. 10. and

bounded as follows viz:

Beginning at a buckeye corner to Martin Sims' land and a corner of the 1st. lot & running thence with said Sims' lines, N. 44 W. 31½ poles down a branch and hollow to the Creek; thence with the Creek N. 15 W. 35 poles to Sims corner, and with his lines N. 58½ W. 46 poles to a black Oak and Spanish Oak; thence N. 28 W. 12 poles to a black Oak and double dogwood thence leaving Sims' lines and with Clark's lines S. 56½ W. 38½ poles to a white Oak and dogwood, thence S. 20½ W. 28 poles to a stake in a hollow, corner to the third lot and with lines thereof S. 51 E. 23 poles down the hollow to the middle of the Creek; thence N. 27 E. 20 poles to two beeches, thence N. 75 E. 9½ poles to two beeches, thence S. 25½ E. 39 poles to a stake in a field thence S. 27 W. 15 poles to a stake; thence S. 13 W. 18 poles to a stake in the wagon road & with it N. 85 E. 14 poles to a stake thence S. 25 E. To a stake on top of Powell's mountain and along the same as it meanders to a stake corner to the first lot and with lines thereof N. 24 W. To a stake in said road and

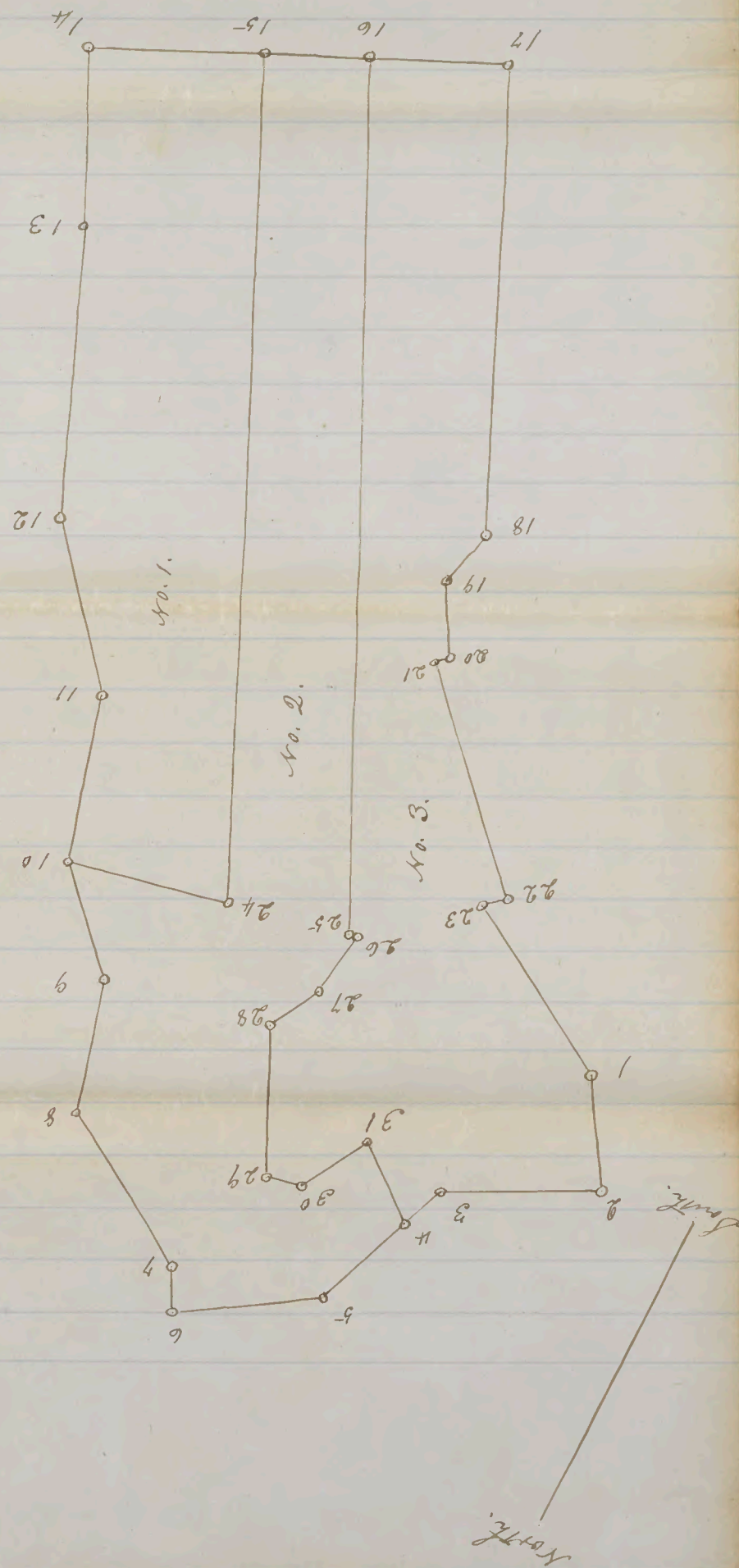
along the road N. 85 E. 42 poles to the beginning.

Thirdly, we have laid off and assigned to Mary Wiler, the wife of Shadrach Wiler a lot estimated to contain 70 acres marked No. 3, on the Plat and represented by the Figure, 25. 16. 17. 18. 19. 20. 21. 22. 23. 1. 2. 3. 4. 31. 30. 29. 28. 27. 26. 25, and bounded as follows: Beginning at a stake in a wagon road corner to the Second lot and running thence with a line thereof S. 25 E. to a stake on top of Powell's mountain corner to the Second lot; thence along the top of the mountain as it meanders S. 65 W. to two Chestnut Oaks corner to Robert Clark's land and with his line N. 24 W. 120 poles to a Chinquapin Oak; thence N. 12 E. 14½ poles to an ash stump; thence N. 29 W. 20 poles to a buckeye stump yet alive; thence N. 43 E. 4 poles to a stake in a field; thence N. 44 W. 63 poles to a stake in said Clark's line; thence leaving his line N. 50 E. 7 poles to a stake; thence N. 60 W. 51 poles crossing the creek to a beech; corner to Clark's land and with line thereof N. 32 W. 30 poles to a hickory stump; thence N. 62½ E. 41 poles to a white Oak; thence N. 20 E. 12 poles to a stake in a branch and hollow; and down the same S. 51 E. 23 poles to the middle of the creek; thence N. 27 E. 20 poles to two beeches; thence N. 75 E. 9½ poles to two beeches; thence S. 25½ E. 39 poles to a stake in a field; thence S. 27 W. 15 poles to a stake; thence S. 13 W. 18 poles to a stake in the road; thence along the road N. 85 E. 17½ poles to the beginning.

Thus we have assigned to each of the three heirs of William A. Darnall Dec'd an equal part as near as we could of the land to which they are entitled & made a fair Plat of the same which will be seen annexed.

Respectfully Submitted,
October the 15th. 1870.

Eli Davis,
Robert Clark
Robt E. Clark



Shadrach Wiler wife

vs. } Report of Comrs Eli
 } Davis & others.

John E. Davault & others

1870 Oct: 17th. Filed

Jno. B. West, Clerk.

Virginia

At a Court of quarter. Sessions continued & held for Lee
County, at the Court House thereof, on Wednesday, Aug. 17-1870.

Shadric Wiler & wife ----- Plaintiffs
vs. } In Chancery
John E. Davault ----- Defendant }

On motion of the plaintiffs, by their attorney, It is ordered that Eli Davis,
Martin Sims, and John D. Sims (Commissioners heretofore appointed by a
former Decree in this cause to partition the lands in the Bill mentioned
in the manner directed in said Decree and report their proceed-
ings to the Court) be each summoned to appear here on the first
day of the next term, to shew cause, if any they can, why they
have not reported to Court, pursuant to said Decree; and
that each of said Commissioners be served with a copy of this
rule, and the cause is continued till the next term.

Leslie John B. West, Clk.

Shadric Wiler et al

vs } Anno vs Eli Davis
et al.

Ino. E. Duvalet.

1st day Sept. term 1870.

executed on
Ely Davis
and Martin Gines
by delivering a true
James Mills D S for

W M Sage S L C

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:
WE COMMAND YOU TO SUMMON *John E. Davault & Jacob Davault*

to appear before the Justices of our County Court for Lee county, at the Court House, in the Clerk's Office, at Rules to be holden for the said court, on the *1st* Monday in *January* next, to answer a bill in chancery, exhibited in our said court, against *them* by *Shadrac Wiler & Mary E. Wiler (formerly Davault)*

And have then there this writ. Witness, JOHN B. WEST, Deputy for SYLVESTER E. THOMPSON, Clerk of our said Court, at the Court House, this *4th* day of *December* 186*9*, in the *94* year of the Commonwealth.

John B. West, D. Clerk.

^{W.P.}
Shadric Wiler et al.

vs. { Spa in Chy.

John E. Devault et al
January Rules 1870.

Executed Decr 1869

Jno H Allen D.S.

for Wm W. Sage S.L.C.

Fee Recd

Law paid